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AMENDED IN ASSEMBLY APRIL 30, 2007
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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1518

**Introduced by Committee on Banking and Finance (Lieu (Chair),
Gaines (Vice Chair), Coto, Mendoza, Parra, Swanson, Torrico,
Walters, and Wolk)**

February 23, 2007

An act to amend Sections 14257, 14405, 14408, 14453, 14456, 14750, 14807, ~~14950, and 15100~~ *and 14950* of the Financial Code, relating to credit unions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1518, as amended, Committee on Banking and Finance. Credit unions.

Existing law provides for the regulation of credit unions by the Commissioner of Financial Institutions. Existing law provides that investigation and examination of reports prepared by the commissioner's duly designated representatives are not public records but authorizes those records to be disclosed to certain personnel of the credit union. Existing law authorizes a credit union to make certain types of investments and to become a member of specified organizations. Existing law prohibits a credit union from making any gift or donation in excess of \$1,000 unless the gift or donation is in the best interest of the credit union and specified conditions are satisfied. Existing law

authorizes the board of directors of a credit union, with written approval of the commissioner, to appoint an executive committee for specified purposes and to delegate the power to approve applications for new membership to certain individuals if the board reviews those approved membership applications quarterly. Existing law makes it a misdemeanor for specified officers, directors, committee members, certain loan officers, or employees of a credit union to knowingly permit or participate in the creation of an obligation with a nonmember of the credit union. Existing law authorizes a credit union to issue shares and enter into certain obligations with members of the credit union.

This bill would authorize the investigation and examination reports prepared by the commissioner's duly designated representatives to be disclosed to internal and external auditors and attorneys of the credit union *to the extent necessary for the auditors and attorneys to perform work related issues addressed in the examination report*. The bill would authorize a credit union to become a member of an organization composed of community economic development entities and business or trade organizations. The bill would change the \$1,000 limit on credit union gifts or donations to \$25,000 and would authorize the board of directors of a credit union to establish a budget for gifts and donations. The bill would authorize the board of directors of a credit union to appoint an executive committee to act as expressly approved by the board, as specified, and to delegate the power to approve applications for new membership to specified individuals as long as the board reviews a report of membership applications at least quarterly. The bill would provide that a member who is withdrawing membership in a credit union may be required to give specified notice of intention to withdraw shares. The bill would authorize a credit union to issue shares and enter into obligations with nonmembers if they are a joint applicant or coobligor with a member of the credit union.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14257 of the Financial Code is amended
- 2 to read:
- 3 14257. Investigation and examination reports prepared by the
- 4 commissioner's duly designated representatives shall not be public
- 5 records. The reports may be disclosed to the officers, directors,

1 members of the ~~supervisors~~ *supervisory* committee, members of
2 the credit committee, ~~internal and external auditors, attorneys, and~~
3 key management personnel of ~~a~~ *the* credit union ~~which~~ *that* is the
4 subject of a report for the purpose of corrective action by those
5 persons. *The examination report may also be disclosed to internal*
6 *and external auditors and attorneys that are retained by the subject*
7 *credit union, but only to the extent necessary for the auditors and*
8 *attorneys to perform work related to issues addressed in the*
9 *examination report.* The disclosure shall not operate as a waiver
10 of the exemption specified in subdivision (d) of Section 6254 of
11 the Government Code.

12 SEC. 2. Section 14405 of the Financial Code is amended to
13 read:

14 14405. Every credit union may:

15 (a) (1) Become a member of any organization or organizations
16 composed of credit unions, credit associations, chambers of
17 commerce, financial institutions, community economic
18 development entities, or business or trade organizations.

19 (2) Become a member of any nonprofit organization approved
20 by the board of directors.

21 (b) Pay dues and assessments as may be levied upon it by any
22 organization of which it is a member.

23 SEC. 3. Section 14408 of the Financial Code is amended to
24 read:

25 14408. No credit union shall make any gift or donation having
26 a value in excess of twenty-five thousand dollars (\$25,000) unless
27 the gift or donation is in the best interest of the credit union, is
28 approved by a resolution of the board of directors and is in
29 conformance with any regulation or order that the commissioner
30 may issue. The resolution of the board of directors approving the
31 gift or donation shall identify the recipient of the gift or donation,
32 state the value of the gift or donation, and specify the basis for the
33 board's determination that the gift or donation is in the best
34 interests of the credit union. The board may establish a budget for
35 gifts and donations and authorize appropriate officials of the credit
36 union to select recipients and disburse budgeted funds among those
37 recipients.

38 SEC. 4. Section 14453 of the Financial Code is amended to
39 read:

1 14453. The board of directors of every credit union shall have
2 the general management of the affairs, funds, and records of the
3 credit union. The board may appoint an executive committee of
4 no fewer than three directors, to serve at its pleasure, to act as
5 expressly approved by the board of directors in accordance with
6 the ~~law~~ laws and regulations.

7 SEC. 5. Section 14456 of the Financial Code is amended to
8 read:

9 14456. Unless the bylaws expressly reserve any or all of the
10 following duties to the members, the directors have all of the
11 following special duties:

12 (a) To act upon all applications for membership. The directors
13 may delegate the power to approve applications for new
14 membership to: (1) the chairperson of a membership committee
15 or to an executive committee; or (2) any officer, director,
16 committee member, or employee, pursuant to a written membership
17 plan adopted by the board of directors, provided the board of
18 directors reviews at least quarterly a report of membership
19 applications approved by an officer, director, committee member,
20 or employee.

21 (b) To expel members for any of the following causes:

22 (1) Conviction of a criminal offense involving moral turpitude.

23 (2) Failure to carry out contracts, agreements or obligations
24 with the credit union.

25 (3) Refusal to comply with the provisions of this division or of
26 the bylaws.

27 Any members who are expelled by the board of directors have
28 the right to appeal therefrom to the members, in which event, after
29 hearing, the order of suspension may be revoked by a two-thirds
30 vote of the members present at a special meeting to consider the
31 matter.

32 (c) To determine from time to time the interest rate on
33 obligations with members and to authorize the payment of interest
34 refunds to borrowing members.

35 (d) To fix the maximum number of shares which may be held
36 by, and, in accordance with Section 15100, establish the maximum
37 amount of obligations which may be entered into with, any one
38 member.

1 (e) To declare dividends on shares in accordance with the credit
2 union's written capital structure policy and to determine the interest
3 rate or rates which will be paid on certificates for funds.

4 (f) To amend the bylaws, except where membership approval
5 is required.

6 (g) To fill vacancies in the credit committee, and to temporarily
7 fill vacancies caused by the suspension of any or all members of
8 the credit committee, pending a meeting of the members to
9 determine whether to affirm the suspension and vacate the office,
10 or to reinstate the member or members.

11 (h) To direct the deposit or investment of funds, except loans
12 to members.

13 (i) To designate alternate members of the credit committee who
14 shall serve in the absence or inability of the regular members to
15 perform their duties.

16 (j) To perform or authorize any action not inconsistent with law
17 or regulation and not specifically reserved by the bylaws for the
18 members, and to perform any other duties as the bylaws may
19 prescribe.

20 SEC. 6. Section 14750 of the Financial Code is amended to
21 read:

22 14750. Except as provided in Section 14950, any officer,
23 director, member of a committee of a credit union, loan officer
24 appointed pursuant to Section 14602, or employee who knowingly
25 permits the creation of an obligation with, or participates in the
26 creation of an obligation with, a nonmember of the credit union,
27 or knowingly permits the creation of an obligation or participates
28 in the creation of an obligation which is not made in conformity
29 with the requirements of this division, is guilty of a misdemeanor.

30 SEC. 7. Section 14807 of the Financial Code is amended to
31 read:

32 14807. Any member may withdraw from membership in the
33 credit union at any time. A withdrawing member may be required
34 to give 60 days' notice of intention to withdraw shares and 30
35 days' notice of intention to withdraw certificates for funds except
36 when a different period of notice is required by the commissioner
37 for the withdrawal of shares or share certificates that may be
38 established by the board of directors pursuant to Section 14862.

39 SEC. 8. Section 14950 of the Financial Code is amended to
40 read:

1 14950. (a) Every credit union may enter into obligations with
2 its members upon the approval of the credit committee or, in the
3 alternative, the credit manager, subject to the terms and conditions
4 established by the board of directors pursuant to Section 15100.

5 (b) (1) The board of directors of a credit union shall adopt a
6 policy governing the acceptance by the credit union of notes
7 receivable from nonmembers as consideration for the sale of assets
8 owned by the credit union through bona fide transactions.

9 (2) No credit union may accept notes receivable from
10 nonmembers as consideration for the sale of assets owned by the
11 credit union except in accordance with a policy adopted by the
12 board of directors pursuant to paragraph (1).

13 (3) Transactions subject to this subdivision shall not be deemed
14 to be loans to nonmembers for purposes of Section 14750.

15 (c) Notwithstanding subdivision (a), a credit union may permit
16 a nonmember to participate in an obligation or extension of credit
17 to a member as a joint applicant or coobligor. An obligation or
18 extension of credit made pursuant to this subdivision shall not be
19 deemed a violation of subdivision (b) of Section 14800. Except as
20 otherwise permitted by statute or regulation, the credit union shall
21 not extend any other benefit or service of the credit union to the
22 nonmember solely as a result of participation as a joint applicant
23 or coobligor unless the nonmember is thereafter admitted to
24 membership.

25 ~~SEC. 9. Section 15100 of the Financial Code is amended to~~
26 ~~read:~~

27 ~~15100. (a) The board of directors shall establish written~~
28 ~~policies which shall set forth the policies of the credit union with~~
29 ~~respect to any obligation that is offered to the members of the~~
30 ~~credit union. The written policies shall set forth the maximum~~
31 ~~amounts and terms for any obligation offered to the members,~~
32 ~~including, but not limited to, the following information:~~

33 ~~(1) For loans, the written policies shall set out the terms for~~
34 ~~unsecured loans, the maximum amount and terms for secured~~
35 ~~loans, the schedule of interest rates established pursuant to Section~~
36 ~~15000 for each type or class of unsecured and secured loan offered~~
37 ~~to members, the maximum maturity for any loan, or, in the case~~
38 ~~of an open-end loan, the rate of repayment for any type or class~~
39 ~~of open-end loan, the limitations, if any, which shall be placed on~~
40 ~~the authority of any loan officer appointed pursuant to Sections~~

1 14602 and 14603, and, subject to the provisions of subdivisions
2 (b) and (c), the individual limits on obligations that are applicable
3 to all members of the credit union. Any policy developed pursuant
4 to this section by the board of directors shall, insofar as possible,
5 and, subject to individual creditworthiness, ensure equal access to
6 funds available for obligations with credit union members.

7 (2) For obligations other than those set out in paragraph (1), the
8 board of directors shall set out the interest rates and essential terms
9 of the obligations offered to the members and any other information
10 as may be required pursuant to regulations that may be adopted
11 by the commissioner.

12 (b) Notwithstanding subdivision (a), no credit union policy shall
13 permit a credit union to enter into obligations with an individual
14 credit union member whereby the total obligations of that member,
15 exclusive of amounts secured by shares or certificates for funds,
16 exceed 10 percent of the aggregate dollar amount of the credit
17 union's savings capital.

18 (c) Notwithstanding subdivision (b), no credit union policy shall
19 permit a credit union to enter into obligations with any one family
20 whereby the total obligations of the family would be greater than
21 the amount permitted by subdivision (b). For purposes of this
22 article, "family" means the marital couple or any head of household
23 together with those dependents residing with the marital couple
24 or the head of household and those dependents attending school
25 away from the principal residence of the marital couple or head
26 of household.

27 (d) Notwithstanding subdivisions (a), (b) and (c), any obligation
28 with a member that is not a natural person shall not result in
29 liability to the credit union in excess of that member's investment
30 in the credit union unless an exception is authorized in the credit
31 union's bylaws. Any lending activity permitted pursuant to this
32 subdivision may be terminated by an order issued by the
33 commissioner pursuant to Sections 14200 and 14204.